

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>JIM T. GLOVER, JR.,</b>	)	<b>CASE NO. 1:18 CV 01134</b>
	)	
<b>Plaintiff,</b>	)	<b>JUDGE DONALD C. NUGENT</b>
	)	
<b>v.</b>	)	
	)	
<b>CORPORAL BOARDMAN, et al.,</b>	)	<b>REVISED ORDER ADOPTING</b>
	)	<b>MAGISTRATE JUDGE'S REVISED</b>
<b>Defendants.</b>	)	<b>REPORT AND RECOMMENDATION</b>

This matter is again before the Court upon the Revised Report and Recommendation of Magistrate Judge Jennifer Dowdell Armstrong (ECF #69), related to Defendant Cuyahoga County's ("County") Corrected Motion for Summary Judgment (ECF #65-1), which Revised Report and Recommendation was filed on December 15, 2022. The Court had earlier issued a decision in this matter, on January 12, 2023, adopting the Magistrate Judge's Revised Report and Recommendation of December 15, 2022 (ECF #71).

On February 7, 2023, based on Plaintiff Jim T. Glover's ("Glover") claim that he did not receive a copy of the Magistrate Judge's December 15, 2022 Revised Report and Recommendation (ECF #69) until January 12, 2023, (ECF #74), this Court vacated its January 12, 2023 Order (ECF #71) to allow Glover an opportunity to file objections to the Magistrate Judge's Revised Report and Recommendation (ECF #69). (ECF #73 [Court Order Vacating 01/12/2023 Order]). This Court's February 7, 2023 Order gave Glover until March 7, 2023 to file his objections to the Revised Report and Recommendation (ECF #73).

On March 8, 2023, Glover filed his objections (ECF #76). The objections made in the March 8, 2023 filing do not change the Court's earlier ruling. Accordingly, the Court issues this Revised Order, again adopting the Magistrate Judge's Revised Report and Recommendation of December 15, 2022 (ECF #69).

### **PROCEDURAL BACKGROUND**

A brief procedural outline of the posture of the Revised Report and Recommendation and this Court's ruling is in order. On February 17, 2022, other Defendants in this case, Steven Boardman ("Boardman") and Philip Irion, Jr. ("Irion"), filed a Motion for Summary Judgment (ECF #52) on Glover's Amended Complaint (ECF #36). On the same date, the County filed a Motion for Summary Judgment (ECF #53), which pleading was a verbatim copy of the Boardman and Irion motion.

On November 1, 2022, Magistrate Judge Armstrong issued a Report and Recommendation (ECF #64) related to the Motions for Summary Judgment, which Report and Recommendation recommended that this Court deny Boardman's and Irion's Motion for Summary Judgment and order Glover to show cause as to why the Court should not grant the County's Motion for Summary Judgment (ECF #64, PageID #442). The Report and Recommendation also noted the verbatim duplication of the two summary judgment pleadings (ECF #64, PageID #442). Later that same day, the County filed a Motion for Leave to Correct Filing Error, noting that it had inadvertently filed a duplicate copy of the Boardman and Irion motion as the County's motion (ECF #65 PageID #463). Attached to the motion was a copy of a "Corrected Motion," which was the pleading the County had intended to file as its own Motion for Summary Judgment (ECF #65-1).

On December 8, 2022, this Court issued an Order Adopting the Magistrate Judge's November 1, 2022 Report and Recommendation as it related to recommending denial of Boardman's and Irion's Motion for Summary Judgment (ECF #68). Accordingly, the claims relating to Boardman and Irion will proceed to trial.

On November 7, 2022, this Court granted the County's Motion for Leave to Correct Filing Error per marginal entry order (ECF #66). On November 15, 2022, this Court issued an Order of Referral, referring the case to Magistrate Judge Armstrong for supervision of the remaining briefing on the County's Corrected Motion for Summary Judgment, and to provide a Revised Report and Recommendation incorporating all of the issues raised in the County's corrected motion (ECF #67). On November 22, 2022, Magistrate Judge Armstrong then issued an order directing Plaintiff to respond to the County's corrected motion by December 5, 2022 (Non-Document ECF Entry, dated November 22, 2022). Glover did not file a response by that date. As noted earlier, in his recent motion for extension of time, Glover asserted that he had not received the Revised Report and Recommendation (ECF #74).

On December 15, 2022, Magistrate Judge Armstrong issued a Revised Report and Recommendation (ECF #69), recommending that the Court GRANT the County's Corrected Motion for Summary Judgment (ECF #65-1) and to STRIKE the County's inadvertently filed Motion for Summary Judgment (ECF #53) from the record.

#### **STANDARD OF REVIEW**

The applicable standard of review of a magistrate judge's report and recommendation depends upon whether objections were made to the report and recommendation. When objections are made to the magistrate judge's report and recommendation, the district court

reviews the case *de novo*. FED. R. CIV. P. 72(b)(3). When no timely objection is filed, “the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” FED. R. CIV. P. 72 Advisory Committee Notes (citations omitted). *See also Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate judge’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings.”) (on *certiorari* from the Sixth Circuit).

### CONCLUSION

The Court has carefully reviewed the Revised Report and Recommendation (ECF #69), as well as Glover’s recently filed objections, (ECF #76), and continues to agree with the findings set forth in the Revised Report and Recommendation (ECF #69). Accordingly, the Revised Report and Recommendation of Magistrate Judge Armstrong (ECF #69) is ADOPTED. Defendant Cuyahoga County’s Corrected Motion for Summary Judgment (ECF #65-1) is GRANTED, and the County’s earlier inadvertently filed Motion for Summary Judgment (ECF #53) is ordered STRICKEN from the record.

The claims against Defendants Boardman and Irion are hereby set for jury trial before this Court on Wednesday, June 21, 2023, at 8:30 am.

IT IS SO ORDERED.

  
DONALD C. NUGENT  
United States District Judge